

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

HECTOR E. PINEIRO,
Plaintiff,

v.

GARY GEMME, Worcester Chief of
Police, and CITY OF WORCESTER,
Defendants.

Civil Action No.
10-40262-FDS

ANSWER BY THE COMMONWEALTH OF MASSACHUSETTS

First Defense.

The Commonwealth of Massachusetts answers the corresponding paragraphs of the complaint as follows.

1. This paragraph summarizes Plaintiff's theory of his case, but contains no allegations of fact to which any response is required under Fed. R. Civ. P. 8(b). To the extent this paragraph contains any such allegations, they are denied.

2. This paragraph contains no allegations of fact to which any response is required under Fed. R. Civ. P. 8(b), but instead asserts only legal conclusions.

3. The Commonwealth lacks information sufficient to admit or deny these allegations.

4-5. Admitted.

6. See above.

7-9. The Commonwealth lacks information sufficient to admit or deny these allegations.

10. Denied.

11-48. The Commonwealth lacks information sufficient to admit or deny these allegations.

49-55. These paragraphs contain no allegations of fact to which any response is required under Fed. R. Civ. P. 8(b), but instead assert only legal conclusions.

56. The Commonwealth lacks information sufficient to admit or deny these allegations.

57-58. Denied.

59. This paragraph contains no allegations of fact to which any response is required under Fed. R. Civ. P. 8(b), but instead asserts only legal conclusions.

60. This paragraph contains no allegations of fact to which any response is required under Fed. R. Civ. P. 8(b), but instead asserts only legal conclusions. Further answering, the Commonwealth denies that Pineiro has any right to a jury trial in his state court challenge to the license issued by the Worcester police chief.

61-69. The Commonwealth lacks information sufficient to admit or deny these allegations.

70. This paragraph contains no allegations of fact to which any response is required under Fed. R. Civ. P. 8(b), but instead asserts only legal conclusions.

71-83. The Commonwealth lacks information sufficient to admit or deny these allegations.

84. This paragraph contains no allegations of fact to which any response is required under Fed. R. Civ. P. 8(b), but instead asserts only legal conclusions.

85-93. The Commonwealth lacks information sufficient to admit or deny these allegations.

94. This paragraph contains no allegations of fact to which any response is required under Fed. R. Civ. P. 8(b), but instead asserts only legal conclusions.

95-103. The Commonwealth lacks information sufficient to admit or deny these allegations.

104. This paragraph contains no allegations of fact to which any response is required under Fed. R. Civ. P. 8(b), but instead asserts only legal conclusions.

105-114. The Commonwealth lacks information sufficient to admit or deny these allegations.

Count I—Second Amendment.

115. See above.

116-117. These paragraphs contain no allegations of fact to which any response is required under Fed. R. Civ. P. 8(b), but instead assert only legal conclusions.

118-119. Denied.

120-122. The Commonwealth lacks information sufficient to admit or deny these allegations.

123. Denied.

Count II—Equal Protection Clause.

124. See above.

125. Denied.

126-130. The Commonwealth lacks information sufficient to admit or deny these allegations.

131. Denied.

Second Defense.

The Commonwealth's sovereign immunity and Eleventh Amendment immunity bar Plaintiffs from seeking or obtaining any relief against the Commonwealth.

Third Defense.

Plaintiff cannot assert any claim against the Commonwealth under 42 U.S.C. § 1983.

Fourth Defense.

Plaintiff has no right to a jury trial on his claims for declaratory and injunctive relief.

MARTHA COAKLEY
ATTORNEY GENERAL OF MASSACHUSETTS

/s/ Kenneth W. Salinger
Kenneth W. Salinger (BBO # 556967)
Assistant Attorney General, Government Bureau
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
617.963.2075
ken.salinger@state.ma.us

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/s/ Kenneth W. Salinger .